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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,008	12/07/2000	Mary Kay McCoy	G03.020	8773

28062 7590 10/19/2005

BUCKLEY, MASCHOFF, TALWALKAR LLC
5 ELM STREET
NEW CANAAN, CT 06840

EXAMINER

RUDY, ANDREW J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/731,008

Applicant(s)

MCCOY, MARY KAY

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 7-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The previous 35 USC 112 rejection of claims 1-6 are withdrawn pursuant to Applicant's August 4, 2005 Amendment to REMARKS.
2. Claims 7-18 remain withdrawn from consideration.

Claim Rejections - 35 USC § 103

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terada et al., US 5,931,946.

Terada discloses a computer network, e.g. 102a, 102b, 103-105, for deploying an external audit program to a plurality of entities, e.g. Fig. 4, to ensure the previous programs that were deployed are compliant with set criteria. Terada does not disclose net operating income values including a net operating audit model.

Applicant's attempt at traversing the Official Notice findings as stated in the April 4, 2005 Office Action is inadequate. Adequate traversal is a two step process. First, Applicant must state their traversal on the record. Second, and in accordance with 37 C.F.R. § 1.111(b) which requires Applicant to specifically point out the supposed errors in the Office Action, Applicant must state why the Office Action statements are not to be considered common knowledge or well known in the art.

In this application, Applicant has clearly not met step (1) as no traversal of Official Notice has been taken. Merely disagreeing with the analysis does not rise to the level of traversal, nor does deferring the decision to agree/disagree with the analysis. Second, Applicant has failed step (2) since they have failed to argue why the Official Notice statements are not to be considered common knowledge or well known in the art. The standard of deferring is not convincing. Being not well known is not determinative, but whether it is known, even if in limited public circles. Because Applicant's traversal is inadequate, the Official Notice, e.g. common knowledge, statements are taken to be admitted as prior art. See, MPEP § 2144.03.

Further, Official Notice is taken that audit models having user-viewable standards, procedures, documentation, and reporting requirements associated with real estate property has been common knowledge in the art. Further, the dependent claims focusing on the particular net operating income and deploying a computer program on digital storage medium have been common knowledge in the art. To have incorporated such for Terada would have been obvious to one of ordinary skill in the art.

Applicant's August 4, 2005 REMARKS have been reviewed, but are moot with regards to the new art rejection.

4. Further pertinent references of interest are noted on the attached PTO-892.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 571-272-6789. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-283-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Andrew Joseph Rudy". The signature is stylized with a large initial "A" and a long, sweeping underline.

Andrew Joseph Rudy
Primary Examiner
Art Unit 3627